

## ITEM 16

### PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

#### *Two-Way Traffic Signal Communication*

04-PGA-19 (CSM-4504)

Vehicle Code Section 21401

Amended by:

Statutes 1994, Chapter 1297

-and-

Statutes 2004, Chapter 889

(Assem. Bill No. 2853 (AB 2853), § 6, eff. September 29, 2004)

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### EXECUTIVE SUMMARY

In 1998, the Commission on State Mandates (Commission) determined that the *Two-Way Traffic Signal Communication* program (Veh. Code, § 21401, Stats. 1994, ch. 1297) imposed a reimbursable state-mandated program on local agencies. The test claim statute imposed a new program upon local agencies by requiring non-exempt traffic signal controllers that are “newly installed or upgraded” due to damage or to an approved congestion management plan to have two-way traffic signal communication capabilities after January 1, 1996. The Commission adopted parameters and guidelines in 1998 to establish the reimbursable activities for this program.

Statutes 2004, chapter 889 (AB 2853, § 6, eff. September 29, 2004) amended Vehicle Code section 21401, and made the program optional, as follows:

(a) Except as provided in Section 21374, only those official traffic control devices that conform to the uniform standards and specifications promulgated by the Department of Transportation shall be placed upon a street or highway.

(b) Any traffic signal controller that is newly installed or upgraded by the Department of Transportation ~~or a local authority after January 1, 1996~~ shall be of a standard traffic signal communication protocol capable of two-way communications. A local authority may follow this requirement.

(c) In recognition of the state and local interests served by the action made optional for a local authority in subdivision (b), the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

On November 8, 2004, the State Controller's Office requested that the parameters and guidelines for this program be amended based on the amendment to the test claim statute.<sup>1</sup>

## Discussion

Article XIII B, section 6 of the California Constitution states that "whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds." (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.<sup>2</sup> To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines "costs mandated by the state" as "any increased costs which a local agency or school district is *required* to incur...as a result of any statute...which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution." (Emphasis added.)

The test claim statute, as amended by Statutes 2004, chapter 889 (AB 2853, § 6), does not mandate local agencies to install traffic signal controllers with two-way traffic signal communication protocols. Rather, the plain language of Vehicle Code section 21401, subdivision (b), as amended, deletes the reference to local agencies, and adds language making this activity optional.

Under the rules of statutory construction, the Commission may not disregard or enlarge the plain provisions of a statute, nor may it go beyond the meaning of the words used when the words are clear and unambiguous. Thus, the Commission, like the court, is prohibited from writing into a statute, by implication, express requirements that the Legislature itself has not seen fit to place in the statute.<sup>3</sup> This prohibition is based on the fact that the California Constitution vests the Legislature with the policymaking authority. As a result, the courts have instructed the Commission to strictly construe the meaning and effect of statutes analyzed under article XIII B, section 6.<sup>4</sup>

Thus, staff finds that, effective September 29, 2004, there is no new program or higher level of service or "costs mandated by the state" on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 because the program has been made optional. Therefore, staff concludes that the parameters and guidelines for this program should be set aside.

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<sup>1</sup> Exhibit A.

<sup>2</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

<sup>3</sup> *Whitcomb v. California Employment Commission* (1944) 24 Cal.2d 753, 757; *In re Rudy L.* (1994) 29 Cal.App.4th 1007, 1011.

<sup>4</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817.

**Staff Recommendation**

Staff recommends the Commission adopt the proposed Order to Set Aside the Parameters and Guidelines for the *Two-Way Traffic Signal Communication* program, effective September 29, 2004.



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Vehicle Code Section 21401, as added by  
Statutes 1994, Chapter 1297;

Filed on December 26, 1995;

By the County of Los Angeles, Claimant.

-And-

Amended by Statutes 2004, Chapter 889,  
(Assem. Bill No. 2854, § 6, effective  
September 29, 2004).

Nos. 04-PGA-19 (CSM-4504)

*Two-Way Traffic Signal Communication*

PROPOSED ORDER TO SET ASIDE  
PARAMETERS AND GUIDELINES

*(Proposed on September 27, 2005)*

**ORDER TO SET ASIDE PARAMETERS AND GUIDELINES**

In 1998, the Commission on State Mandates (Commission) determined that the *Two-Way Traffic Signal Communication* program (Veh. Code, § 21401, Stats. 1994, ch. 1297) imposed a reimbursable state-mandated program on local agencies. The test claim statute imposed a new program upon local agencies by requiring non-exempt traffic signal controllers that are “newly installed or upgraded” due to damage or to an approved congestion management plan to have two-way traffic signal communication capabilities after January 1, 1996. The Commission adopted parameters and guidelines in 1998 to establish the reimbursable activities for this program.

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(d) In recognition of the state and local interests served by the action made optional for a local authority in subdivision (b), the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this

subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

On November 8, 2004, the State Controller's Office requested that the parameters and guidelines for this program be amended based on the amendment to the test claim statute.<sup>5</sup>

Article XIII B, section 6 of the California Constitution states that "whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds." (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.<sup>6</sup> To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines "costs mandated by the state" as "any increased costs which a local agency or school district is *required* to incur...as a result of any statute...which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution." (Emphasis added.)

The test claim statute, as amended by Statutes 2004, chapter 889 (AB 2853, § 6), does not mandate local agencies to install traffic signal controllers with two-way traffic signal communication protocols. Rather, the plain language of Vehicle Code section 21401, subdivision (b), as amended, deletes the reference to local agencies, and adds language making this activity optional.

Under the rules of statutory construction, the Commission may not disregard or enlarge the plain provisions of a statute, nor may it go beyond the meaning of the words used when the words are clear and unambiguous. Thus, the Commission, like the court, is prohibited from writing into a statute, by implication, express requirements that the Legislature itself has not seen fit to place in the statute.<sup>7</sup> This prohibition is based on the fact that the California Constitution vests the Legislature with the policymaking authority. As a result, the courts have instructed the Commission to strictly construe the meaning and effect of statutes analyzed under article XIII B, section 6.<sup>8</sup>

Thus, Commission finds that, effective September 29, 2004, there is no new program or higher level of service or "costs mandated by the state" on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 because the program has been made optional.

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<sup>8</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817.

Therefore, based on the amendment of the test claim statute, the Commission sets aside the attached parameters and guidelines for the *Two-Way Traffic Signal Communication* program, effective September 29, 2004.

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Paula Higashi, Executive Director

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Date

Attachment: Parameters and Guidelines

